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ANG KEE CHYE v. KETUA PENGARAH PERTUBUHAN KESELAMATAN SOSIAL

HIGH COURT MALAYA, PULAU PINANG
AZIZAN MD ARSHAD J
[APPEAL NO: PA-16-7-04-2025]
15 OCTOBER 2025

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Abstract – *An appeal against the decision of the Medical Board, in this case, for invalidity benefits, should be directed to the Appellate Medical Board, pursuant to s. 33 of the Employees' Social Security Act 1969. It is beyond the expertise and jurisdiction of the Social Security Appellate Board to review the findings of the Medical Board. Appeals against the decision of the Appellate Medical Board on points of law to the High Court is possible in specific cases.*

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JURISDICTION: *Courts – Civil courts – Dismissal of claim for invalidity benefits by Medical Board – Appeal to Social Security Appellate Board ('SOCSO Appellate Board') dismissed – Whether should have appealed to Appellate Medical Board – Whether civil court's jurisdiction to deal with dispute decided by the Medical Board or Appellate Medical Board expressly excluded by s. 84(5) of the ESSA – Whether beyond expertise and jurisdiction of SOCSO Appellate Board to review findings of Medical Board – Whether decision of Medical Board conclusive and binding – Employees' Social Security Act 1969, ss. 34 & 91(2)*

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LABOUR LAW: *Social security – Invalidity benefits – Dismissal of claim for invalidity benefits by Medical Board – Appeal to Social Security Appellate Board ('SOCSO Appellate Board') dismissed – Whether satisfied pre-requisites of appeal under Employees' Social Security Act 1969 ('ESSA') – Whether should have appealed to Appellate Medical Board – Whether civil court's jurisdiction to deal with dispute decided by the Medical Board or Appellate Medical Board expressly excluded by s. 84(5) of ESSA – Whether beyond expertise and jurisdiction of SOCSO Appellate Board to review findings of Medical Board – Whether decision of Medical Board conclusive and binding – Employees' Social Security Act 1969, ss. 34 & 91(2)*

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The appellant, who applied for invalidity benefits pursuant to ss. 16 and 17 of the Employees' Social Security Act 1969 ('ESSA'), was referred to the Medical Board. The Medical Board, having reviewed the medical reports, decided that the appellant was experiencing invalidity, with the onset of morbidity. However, at the time of the appellant's morbidity, he was past 60 years old and thus exceeded the statutory age threshold. As such, the appellant's claim was rejected as it was barred by s. 17(1) of the ESSA. His claim was additionally prohibited by r. 46(5) of the Employees' Social Security (General) Regulations 1971 ('ESSR'). The appellant, instead of appealing to the Appellate Medical Board against the decision of the Medical

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Board, submitted an application/appeal to the Social Security Appellate Board ('SOCSO Appellate Board') wherein the appellant's claim was dismissed. Hence, this appeal. The issues for the court's consideration in this appeal were: (i) whether the appellant had met the prerequisites for an appeal under s. 91(2) of the ESSA; (ii) whether the SOCSO Appellate Board has jurisdiction and power to review an appeal by an aggrieved party over the decision of the Medical Board.

Held (dismissing appeal; upholding decision of SOCSO Appellate Board):

(1) The jurisdiction of the civil courts to deal with any question or dispute which is to be decided by the Medical Board or an Appellate Medical Board has been expressly excluded by s. 84(5) of the ESSA. The appellant had never appealed against the decision of the Medical Board to the Appellate Medical Board under ss. 33 and 34 of the ESSA. As the decision of the Medical Board was not promptly challenged, the Medical Board's decision was conclusive and binding. Under s. 91(2) of the ESSA, the appeal must involve a substantial issue of law. The appellant had succeeded in meeting the prerequisites for an appeal under s. 91(2) of the ESSA. (paras 10, 16, 17, 20 & 24)

(2) The appellant's claim that the SOCSO Appellate Board neglected to ask about his medical history before the case had gone to trial, such as the fact that he had a health issue since the age of 48 that led to a stroke at the age of 59, was unfounded. All forms of interpretation relating to morbidity are medical questions and findings that should be made by the Medical Board and, if the appellant was not satisfied with the findings, an appeal should be lodged to the Appellate Medical Board. However, no such appeal had been made. (paras 41 & 42)

(3) It was beyond the expertise and jurisdiction of the SOCSO Appellate Board to determine or review the findings of the Medical Board as seen under s. 34 of the ESSA. The SOCSO Appellate Board had therefore rightly dismissed the appellant's appeal. There was no appealable error made by the SOCSO Appellate Board. (paras 21 & 37)

Case(s) referred to:

Jayabalan Kuppusamy v. Ketua Pengarah Pertubuhan Keselamatan Sosial [2022] MLJU 3295 ***(dist)***

Ketua Pengarah, Pertubuhan Keselamatan Sosial v. Barang Anak Embuyang [2020] CLJU 1052; [2020] 1 LNS 1052 HC ***(refd)***

Ketua Pengarah, Pertubuhan Keselamatan Sosial v. Rahim Darus [2001] 2 CLJ 587 HC ***(refd)***

Mary Pushpam Savarimuthu v. Ketua Pengarah Pertubuhan Keselamatan Sosial [2006] 7 CLJ 511 HC ***(refd)***

Mazni Ibrahim v. Rosaidy Effandy (Tetuan Khairil & Co) [2013] 4 CLJ 453 CA ***(refd)***

Patrick Ho Chang v. Pertubuhan Keselamatan Sosial [2020] 1 CLJ 284 HC ***(refd)***

A *Rashpal Kaur Maan Singh v. Ketua Pengarah Pertubuhan Keselamatan Sosial [2019] CLJU 2156; [2019] 1 LNS 2156 HC* ***(refd)***
Sithamah Yarayah lwn. Ketua Pengarah Pertubuhan Keselamatan Sosial [2012] CLJU 1106; [2012] 1 LNS 1106 HC ***(refd)***

Legislation referred to:
B Employees' Social Security (General) Regulations 1971, regs. 46(5), 55, 71
Employees' Social Security Act 1969, ss. 16, 17(1), 33, 34, 84(5), 91(2)

For the appellant - Louis Goh & Lee Sin Yee; M/s Louis Goh & Co
For the respondent - Dalveena Korotana; M/s Arnold Andrew & Co

Reported by S Barathi

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JUDGMENT
(encl. 1)

Azizan Md Arshad J:

D **Introduction**

[1] On 10 January 2025, the Social Security Appellate Board (SOCSO Appellate Board) dismissed the appellant's claim for invalidity benefits pursuant to Employees' Social Security Act 1969 (ESSA).

E **[2]** This is an appeal filed to the Court of Appeal on 3 October 2025 by the appellant against the decision of this court on 10 September 2025, which dismissed the appellant's appeal and affirmed the decision of SOCSO Appellate Board. The parties in this judgment are referred to as they were in the High Court.

F **Brief Facts**

[3] On 21 June 2024, the appellant applied for invalidity benefits pursuant to ss. 16 and/or 17 of the ESSA 1969 using "Borang 34-Notis Pemberitahuan Keilatan", along with medical reports from Bagan Specialist Centre dated 23 May 2024.

G **[4]** Subsequently, the appellant was referred to the Medical Board, known as Jemaah Doktor (Keilatan), which was convened on 2 August 2024. After reviewing the medical reports submitted, the Medical Board determined that the appellant was experiencing invalidity, with the onset of morbidity dated 17 May 2024.

H **[5]** The appellant was born on 14 April 1964, and as of the date of his Form 34, which was dated 21 June 2024, he had reached the age of 60 years, two months, and seven days. At the time of the appellant's morbidity on 17 May 2024, he was over 60 years, one month and three days old.

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[6] Due to the appellant's age exceeding the statutory age threshold, the application was rejected. This is attributed to the fact that at the moment of the application, the appellant was over 60 years of age, *ie*, age limit provided under s. 17(1) of the ESSA 1969. As such, the appellant's claim was barred by s. 17(1) of the ESSA 1969.

[7] Since the appellant's purported morbid condition emerged after he reached the age of 60, his claim was additionally prohibited by r. 46(5) of the Employees' Social Security (General) Regulations 1971 ("ESSR 1971").

[8] The appellant did not file an appeal against the decision rendered by the Medical Board on 2 August 2024 to the Appellate Medical Board pursuant to s. 33 of the ESSA 1969. Rather, the appellant submitted an application/appeal to the social security Appellate Board through Borang A.

Analysis And Findings

[9] These are some of the respondent's well-founded arguments and objections that this court has considered as follows:

Whether The Appellant Has Met The Prerequisites For An Appeal Under Section 91(2) Of The ESSA 1969?

[10] It is disputed if the appellant has met the prerequisites for an appeal under s. 91(2) of the ESSA 1969 which states that the appeal must involve a substantial issue of law.

[11] This originates from an appeal that was filed to the High Court of Malaya against the Social Security Appellate Board's decision rendered on 10 October 2025, in accordance with s. 91 of the ESSA 1969.

[12] The appellant has failed to meet the threshold required for an appeal under s. 91(2) of the ESSA 1969 whereby the appellant has failed to show this appeal involves a substantial question of law. Section 91 states as follows:

s. 91 - Appeal

(1) Save as expressly provided in this section, no appeal shall lie from an order of the Appellate Boards set up by or under this Act.

(2) An appeal shall lie to the High Court from an order of an Appellate Board set up by or under this Act if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days from the date the order is made.

[13] In *Sithamah Yarayah lwn. Ketua Pengarah Pertubuhan Keselamatan Sosial* [2012] CLJU 1106; [2012] 1 LNS 1106; [2012] MLJU 990, held that:

> ... any party who is dissatisfied with a decision of the Appellate Medical Board (either an "insured person" (defined in s. 2(11) ESSA) or the respondent) can only appeal to the High Court under s. 91(1) and (2) ESSA against such a decision provided that the appeal involves a "substantial question of law";

[14] In the case *Ketua Pengarah, Pertubuhan Keselamatan Sosial v. Rahim Darus* [2001] 2 CLJ 587; [2001] 3 MELR 468, held that:

> Let it be said loud and clear and early in this judgment that an invalidity or disablement question is exclusively for the Medical Board and the Appellate Medical Board to decide.

[15] In *Mary Pushpam Savarimuthu v. Ketua Pengarah Pertubuhan Keselamatan Sosial* [2006] 7 CLJ 511. The court held that:

> (1) The High Court in *Rahim Darus* had clearly held that under the Act the question of validity was to be decided by the Medical Board and the Appellate Medical Board. The social security Appellate Board lacked the jurisdiction to determine the invalidity question. Thus, the social security Appellate Board, being an inferior tribunal should have followed and given effect to the decision of the High Court in *Rahim Darus* by declining jurisdiction to hear the applicant's claim for invalidity pension, (para 10)
>
> (2) Under the Act, the administration of the scheme of social security is with SOCSO. The social security Appellate Board was constituted only to adjudicate any dispute or claim as stipulated under s. 84 of the Act. Section 84 of the Act does not empower the social security Appellate Board the jurisdiction to determine on the issue of invalidity or disablement. The power to determine on the issue of invalidity or disablement under the Act is with the Medical Board. Further, the Act conferred on an aggrieved party a right to appeal against the decision of the Medical Board to the Appellate Medical Board and not to the social security Appellate Board (s. 33(2) of the Act). The Act does not provide a further appeal against the decision of the Appellate Medical Board to the social security Appellate Board, (paras 11, 12 & 14)
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> (3) The social security Appellate Board has no jurisdiction to hear or determine the question of invalidity or disablement. The jurisdiction is with the Medical Board and the Appellate Medical Board. The social security Appellate Board has no power to review or entertain any appeal by an aggrieved party over the decision of the Medical Board or the Appellate Medical Board.

[16] Further, the jurisdiction of the civil courts to deal with any question or dispute which is to be decided by a Medical Board or an Appellate Medical Board had been expressly excluded by s. 84(5) of the ESSA 1969.

[17] The appellant never appealed against the decision of the Medical Board on 2 August 2024 to the Appellate Medical Board under ss. 33 and 34 of the of the ESSA 1969.

[18] Section 33 states that:

> s. 33:
>
> References to Medical Boards and appeals to Appellate Medical Board
>
> (1) The case of any insured person for invalidity pension or for permanent disablement benefit shall be referred by the Organization to a Medical Board for determination of the invalidity question or the disablement question, and if, on that or any subsequent reference, the extent of loss of earning capacity of the insured person is provisionally assessed, it shall again be so referred to the Medical Board not later than the end of the period taken into account by the provisional assessment.
>
> (2) If the insured person or the Organization is not satisfied with the decision of the Medical Board, the insured person or the Organization may appeal, in the prescribed manner and within the prescribed time, to the Appellate Medical Board constituted in accordance with the regulations.

[19] Section 34 of the of the ESSA 1969 states that:

> s. 34:
>
> Review of decisions by Medical Board or Appellate Medical Board
>
> (1) Any decision under this Act of a Medical Board (including the special Medical Board) or the Appellate Medical Board may be reviewed at any time by the Medical Board or the Appellate Medical Board, if it is satisfied by fresh evidence that the decision.
>
> (2) ...
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> (3) ...
>
> (4) ...

[20] In the present situation, the decision was not promptly challenged as no objections have ever been raised to it. Therefore, the Medical Board's decision on 2 August 2024, is conclusive and binding.

[21] It should be noted that only the Medical Board and the Appellate Medical Board have the jurisdiction to determine the appellant's invalidity under s. 33 of ESSA 1969. Furthermore, the appellant in this instance went on and appealed to the High Court without adhering to the steps specified in Employees' Social Security (General) Regulations 1971, specifically reg. 55 of the ESSR 1971. The SOCSO Appellate Board does not have jurisdiction to determine on the appellant's invalidity and therefore had rightly dismissed the appellant's appeal.

[22] In the case of *Rahim Darus* (*supra*), the court held that:

> The Act confers on an aggrieved party – the insured person or SOCSO – a right to appeal against the decision of the Medical Board to the Appellate Medical Board. Section 33(2) states:
>
> > 33(2) If the insured person or the Organisation is not satisfied with the decision of the Medical Board, the insured person or the Organisation **may appeal, in the prescribed manner and within the prescribed time, to the Appellate Medical Board constituted in accordance with provisions of the regulations**.
>
> It must be noted that the civil court has no jurisdiction to decide or deal with any question or dispute which is to be decided by the social security Appellate Board or the Medical Board or the Appellate Medical Board except by way of reference on a question of law or by way of appeal on a substantial question of law respectively (ss. 84(4), (5), 90, 91).
>
> ...
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> These provisions lock out the social security Appellate Board from sneaking into the realm of medical jurisdiction and jurisprudence of the Medical Board and the Appellate Medical Board. Even the court as the custodian of justice and keeper of the master key is allowed limited access. My humble view that the board has no appellate jurisdiction over the Appellate Medical Board is fortified further from the clear intention of the legislature in s. 91(1) of the Act. The section states:
>
> > 91(1) Save as expressly provided in this section, no appeal shall lie from an order of the Appellate Boards set up by or under this Act.
> >
> > The word "boards" in the plural number denotes both the Appellate Medical Board and the social security Appellate Board. In other words it means and includes that an appeal shall not lie from an order of the Appellate Medical Board to the social security Appellate Board.
>
> (emphasis added)

[23] However, in this issue, this court referred and agreed to follow the case of *Jayabalan Kuppusamy v. Ketua Pengarah Pertubuhan Keselamatan Sosial* [2022] MLJU 3295, in which the question of law appealed is almost the same. The court in that case decided that:

> [19] Learned counsel for the respondent argued that s. 91(2) of the SOCSO Act provides that there shall be no appeal against the decision of the Appellate Board unless the appeal involves a substantial question of law.
>
> [20] According to learned counsel, the appeal before this Court is primarily on the question of facts.
>
> [21] I have gone through the memorandum of appeal ("MOA") of the appellant. With respect, I do not think that the issues raised at this appeal are purely on the question of facts. For example, para 2 of the MOA states as follows:

> 2. Pengerusi yang Bijaksana telah terkhilaf di sisi undang-undang dan fakta apabila beliau telah gagal untuk menghargai dan mengambil kira fakta-fakta bahawa Perayu telah memenuhi segala syarat-syarat pengecualian di bawah [Peraturan] 46 Peraturan-Peraturan (Am) Keselamatan Soslal Pekerja 1971 dalam membuat keputusan tersebut lalu telah memprejudiskan hak Perayu secara keseluruhannya.

Since the appellant has made specific reference to Regulation 46 of the 1971 Regulations, I respectfully cannot assent to the respondent's line of argument and hold that s. 91(2) of the SOCSO Act has been complied with.

[24] In our case, the appellant has succeeded to meet the prerequisites for an appeal under s. 91(2) of the ESSA 1969. Looking at the facts of this case, this court finds that the appellant has met the requirements of the section to allow this appeal to proceed, therefore the objection on this issue is dismissed.

Whether Social Security Appellate Board Has Jurisdiction And Power To Review Appeal By Aggrieved Party Over Decision Of Medical Board?

[25] SOCSO, which lacks the authority to rule on issues addressed by the Medical Board and/or the Appellate Medical Board, specifically regarding the appellant's date of morbidity, a fact determined by medical assessment, dismissed the appellant's claim, leading to the order of the social security Appellate Board issued on 10 January 2025.

[26] In *Rahim Darus*'s case (*supra*) it was decided that:

> The Act does not provide further appeal to the social security Appellate Board relating to invalidity pension or permanent disablement benefit. Nor is the board empowered to decide on an invalidity or disablement question. If such questions arise in any proceeding before the board, the board shall direct SOCSO to have the questions decided by the Medical Board or Appellate Medical Board. The board shall not decide on such questions. Section 84(3) states:
>
> > 84(3) If in any proceedings before the Board an invalidity or disablement question arises and the decision of a Medical Board or Appellate Medical Board has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Board, the Board shall direct the Organisation to have the question decided by this Act and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the Medical Board or the Appellate Medical Board, as the case may be.

[27] In *Patrick Ho Chang v. Pertubuhan Keselamatan Sosial* [2020] 1 CLJ 284; [2019] MLRHU 1212, it was held that:

> [10] Firstly, if there is an invalidity claim, according to s. 84(3) ESSA, the respondent's "board" (established under s. 59B ESSA) "shall" decide the invalidity claim in accordance with the decision of the Medical Board or the Appellate Medical Board. I am of the view that s. 84(3) ESSA is a mandatory provision because Parliament has deliberately chosen to use a mandatory term "shall" in that provision.

[28] This appeal can be dismissed in light of this objection. Nevertheless, if the court decides against the objection, there are other merit-related points raised in this case that were also considered by SOSCO Appellate Board in arriving at its final decision.

[29] The question is whether the appellant has been prohibited to take this action. The primary discussion is based on s. 17 of the ESSA 1969 and reg. 46 of the ESSR 1971.Both provisions will be determined by the court on its merits.

[30] Section 17(1) of the ESSA 1969 states that.

> 17. (1) Subject to this Act, an insured person suffering from invalidity as defined in section 16 shall, unless he has attained sixty years of age, be entitled to receive invalidity pension if he has completed a full or a reduced qualifying period.

[31] Regulation 46 of the ESSR 1971 states that:

> (5) A person who has attained sixty years of age may give a notice of invalidity if he can prove that:
>
> (a) He is suffering from a specific morbid condition of permanent nature;
>
> (b) He is incapable of engaging in any substantially gainful activities that the morbid conditions has set in before he attains the age of sixty; and
>
> (c) He has not been gainfully employed since then.

[32] The appellant in this instance is definitely more than the stated age of 60. This establishes the total application of s. 17(1) of the ESSA 1969 on the surface in question.

[33] In the case of *Rashpal Kaur Maan Singh v. Ketua Pengarah Pertubuhan Keselamatan Sosial* [2019] CLJU 2156; [2019] 1 LNS 2156, held that:

> [12] The pertinent consideration in the present case is whether the IP has fulfilled the requirement of s. 17 of the Act which provides:
>
> When person considered as suffering from from (*sic*) invalidity
>
> 17. (1) Subject to this Act, an insured person suffering from invalidity as defined in s. 16 shall, unless he has attained sixty years of age, be entitled to receive invalidity pension if he has completed a full or a reduced qualifying period.

[34] In *Ketua Pengarah, Pertubuhan Keselamatan Sosial v. Barang Anak Embuyang* [2020] CLJU 1052; [2020] 1 LNS 1052, it was held that:

> [4] The appellant submitted that the said question of law referred to herein involves the interpretation of whether it is a mandatory requirement under Rules 46(5)(a)(b) and (c) of the Employees' Social Security (General) Regulations 1971 for an insured person to file in the Notice of Invalidity before he/she attains the age of retirement (in this case 60 years).
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> ... b. The learned Chairman erred in law and in fact when they failed to consider that the Respondent have failed to fulfil the requirements of Rules 46(5) as the Respondent has already attained the age of 65 years... when submitting his notice of invalidity ...
>
> This goes to show that even if he is suffering from a specific morbid condition of permanent nature as alleged (which we deny) the Respondent was capable of engaging in substantially gainful activities beyond the age of 60 years old. Therefore, the Respondent failed to show that he is incapable of engaging in any substantially gainful activities that the morbid conditions has set in before he attains the age of sixty ...
>
> ...
>
> [8] As a general rule, a person who is no longer able to work due to their morbid condition which is permanent in nature must file in their claim for invalidity to the appellant before attaining the age of retirement. See Rule 46(5) Employees' Social Security (General) Regulations, 1971 and s. 4(1) of the minimum Retirement Age (2012) (Minimum retirement age is 60 years). Failure to do so will result in their claim being rejected. However, there are exceptions to the rule and this is provided for in Rule 46(5)(a)(b)(c) of the 1971 Regulation.
>
> [9] Rule 46(5) provides that "A person who has attained sixty years of age may give a notice of invalidity if he can prove that:
>
> (a) he is suffering from a specific morbid condition of permanent nature;
>
> (b) he is incapable of engaging in any substantially gainful activities that the morbid conditions has set in before he attains the age of sixty; and
>
> (c) he has not been gainfully employed since then ..
>
> In the circumstances, this Appeal is for the reasons aforesaid allowed. The decision by the social security Appellate Board to refer the Respondent to the Medical Board is therefore set aside.

[35] The appellant tried to use the case of *Jayabalan Kuppusamy v. Ketua Pengarah Pertubuhan Keselamatan Sosial* [2022] MLJU 3295, in which it was held:

> [13] In deliberating whether the appellants came into the exception, the Appellate Board referred to the elements in Regulation 46(5) of the 1971 Regulations, which are:

A person who has attained sixty years of age may give a notice of invalidity if he can prove that:

(a) he is suffering from a specific morbid condition of permanent nature;

(b) he is incapable of engaging in any substantially gainful activities that the morbid conditions have set in before he attains the age of sixty; and

(c) he has not been gainfully employed since then.

[36] The facts of *Jayabalan Kuppusamy* (*supra*), can be distinguished from the case before the court now. In *Jayabalan*'s case there was no issue relating to the dispute of the morbid date. The issue in that case was related to the issue of exceptions in reg. 46(5) of the ESSR 1971. This can be clearly seen in the reasons for the judgment where the Honourable Judge stated:

[25] Despite learned counsel for the respondent's vigorous submission that the appellant has failed to fulfil all the three conditions in Regulation 46(5), **it is my considered view that this Court should only address on condition (b)**. The reason is this. In its grounds of judgment, the Appellate Board had made a finding that the appellant had fulfilled condition (a) when it said:

Menurut syarat dalam Peraturan tersebut, OB telah memenuhi syarat (a) dan mungkin juga syarat (c).

(emphasis added)

[37] In our case, SOCSO Appellate Board in its grounds of judgment dated 17 June 2025 referred to the salary statements (exhs. 5 – from 1983 until April 2024) which clearly shows that the appellant was still working and has income even though he has been certified as unemployed, therefore does not meet conditions (a) and (b) of the reg. 46(5) of the ESSR 1971. The objections relating to the applicant's CPO contributions are also not challenged. The fact that the appellant was unable to work is contrary to the CPO which clearly shows that deductions were made from the appellant's income. This fact was also considered by SOCSO Appellate Board. The appellant's evidence cannot substantiate this documentary evidence, which is an official evidence from the third-party record, which is not in the control of the appellant or the respondent. This evidence is independent evidence.

[38] The appellant raised all the facts relating to his health problems during the hearing before SOSCO Appellate Board which are contrary to well-established legal principles. SOCSO Appellate Board has been restricted an attempt to exercise its discretion under the reg. 45 of the ESSR 1971 by the respondent. According to the following note of proceedings dated 10 January 2025, the court concludes that SOCSO Appellate Board has considered all pertinent documents:

Panel:

Merujuk kepada penyataan *Pembelaan, KWSP dan Keputusan Jemaah Doktor.*

Keputusan JKRS:

Setelah mendengar rayuan Pemohon, *Ekshibit-ekshibit yang telah dikemukakan (Penyatan Majikan), Syor Majikan dan Panel Perkerja Serta Peruntukan Undang-Undang yang berkaitan*, Panel sebulat suara mendapati bahawa Pemohon telah mengemukakan *Notis Ilat pada 2/7/2023 dan memutuskan bahawa Pemohon tidak mematuhi syarat Kelayakan Umur llat di bawah Seksyen 17(1) AKSP 1969 [Akta 4] dan dibaca bersama Aturan 46 Peraturan-Peraturan Am Keselamatan Sosial Pekerja 1971*. Oleh itu Panel sebulat suara menolak Rayuan OB.

(emphasis added)

[39] This demonstrates unequivocally that SOSCO Appellate Board in its ground of judgment evaluated all the information to determine whether the appellant, although being above 60 (notis ilat dated 2 July 2023) is covered by the exception. The appellant acknowledged that he did not file an appeal with the Appellate Medical Board on the "finding of the invalidity or the morbid conditions" in this particular case. As stated previously, it is beyond the expertise and jurisdiction of SOSCO Appellate Board to determine or review the findings of the Medical Board. This can be clearly seen under s. 34 of the ESSA 1969.

[40] According to s. 34 of the ESSA 1969, the Legislature gives the Medical Board and the Appellate Medical Board a self-serving authority to review their own decisions. In our case, the allegation raised was an incorrect certified date of morbid which was confirmed on 17 May 2024 while the appellant's claim should be calculated from the date the appellant suffered a stroke on 17 August 2023. If the date of the stroke is considered, the date of the morbidity was confirmed when the appellant was 59 years old. Since there was such an interpretation, it is appropriate to appeal to medical appeal board and not within the jurisdiction of SOSCO Appellate Board to decide the actual date of the morbidity.

[41] The appellant claimed that SOSCO Appellate Board neglected to ask about his medical history before the case went to trial, such as the fact that he had a health issue since the age 48 that led to a stroke at the age of 59, is unfounded. All forms of interpretation related to morbid are medical questions and findings that should be decided by the Medical Board, and if the appellant is not satisfied, an appeal can be lodged to the Appellate Medical Board. Learned counsel for the appellant also argued that in this case the appellant is a "layman" and did not know his rights. However, based on the background of the appellant, he was an engineer and not an uneducated person as in the case of *Jayabalan* (*supra*), who was working as a gardener at that material time.

[42] The appellant admitted that no such appeal had been made. Had the appellant made such an appeal, the power to review the decision could have been delegated to the medical appeal board. In *Rahim Darus*'s case (*supra*) held that:

> [2] The Medical Board and the Appellate Medical Board have the exclusive right to decide on issues of invalidity or disablement, as they involve medical questions which would best be answered by the medical profession and jurisprudence. SSAB, comprising of legally qualified persons, would not be competent to decide on such issues.
>
> [3] Where an aggrieved party is dissatisfied with a decision of the Medical Board, s. 33(2) of the 1969 Act confers upon the said party a right to appeal to the Appellate Medical Board. However, s. 91(1) of the 1969 Act provides that SSAB has no appellate jurisdiction over the Appellate Medical Board.
>
> [4] Section 34 of 1969 Act empowers the Medical Board and the Appellate Medical Board to review their own decisions. This would mean that the decisions of both boards are final, conclusive and not appealable, certainly not to SSAB with exception of the High Court.
>
> [5] SSAB had erred in law in deciding that the respondent was suffering from invalidity as it was entirely within the discretion of the Medical Board and the Appellate Medical Board to decide whether the respondent was an invalid.

[43] Facts related to health are within the jurisdiction of the Medical Board. Sections 55 and 81 of the ESSR 1971 are also clear on this matter.

> (i) Section 55 states that:
>
> s. 55. Authority to certify invalidity
>
> For the purpose of paragraph (a) section 15(1) of the Act, authority competent to certify invalidity shall be the Medical Board and in cases where an appeal is made to it from the decision of the Medical Board, the Appellate Medical Board.
>
> (ii) Section 81 states that:
>
> s. 81 Appeal against decision of the Medical Board
>
> Where an insured person or the Organisation, on being dissatisfied with the decision of the Medical Board on an invalidity or a disablement question, intends to appeal against such decision to the Appellate Medical Board, the appeal in the form approved by the Organisation, shall be lodged with the Appellate Medical Board within 90 days of communication of the decision appealed against:
>
> Provided that the Appellate Medical Board may entertain an appeal lodged after the aforesaid time limit if it is satisfied with the reasons for delay.

Other Issues

[44] In addition, the court also considered objections relating to the appellant's record of appeal, in which it was alleged that it was incomplete and contains documents not put forth before the SOCSO Appellate Board. Further, the draft index was never served on the respondent.

[45] The respondent was relying on the case of *Mazni Ibrahim v. Rosaidy Effandy (Tetuan Khairil & Co)* [2013] 4 CLJ 453, held:

> [20] The record of appeal now before this court was not served upon the respondent's counsel before filing it. We observed that the purported respondent's written submission sought to be admitted through encl. 8a is only part of the record of appeal. Allowing encl. 8a would not have remedied non-service of the draft record of appeal before it was filed. Such failure is a fundamental threat to the reliability of records of appeals before the appellate courts that it cannot be countenanced under any circumstances. Such defect is, therefore, fatal to the record of appeal. Without a record of appeal filed, the appeal is fundamentally defective.
>
> ...
>
> But the record of appeal in the first occasion was incomplete and in the second occasion, the record of appeal in the Court of Appeal suffered from the fundamental defect of the draft not having been served upon the respondent and containing a submission denied to have been made or used by the respondent's counsel. It was not made possible to show where the merits and therefore justice lay.

[46] This court found that this non-compliance did not prejudice the hearing of this appeal because it involved a technical issue that could be rectified. It was not a non-compliance that affected the entire appeal. The objection on this issue by the respondent is dismissed.

Conclusion

[47] For the record, this court is also very sympathetic to the health condition and hardship experienced by the appellant, but the provisions of law are clear. After considering both parties' submissions and the SOCSO Appellate Board's grounds of judgment dated 17 June 2025, this court finds that the reasons and facts of the entire case justifies the conclusion set forth below:

(i) the Social Security Appellate Board did not make an appealable error; and

(ii) the appeal is dismissed without costs and the decision of the Social Security Appellate Board is hereby upheld.